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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/511,923	11/18/2004	Andreas Brenner		8926

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EXAMINER

KUMAR, RAKESH

ART UNIT	PAPER NUMBER
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3654

DATE MAILED: 04/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/511,923	Applicant(s) BRENNER, ANDREAS	
	Examiner Rakesh Kumar	Art Unit 3654	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) 1-10 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-18 and 20-23 is/are rejected.
- 7) ☒ Claim(s) 19 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 18 October 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)               | Paper No(s)/Mail Date. _____  |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>11/18/2004</u> .  | 6) <input type="checkbox"/> Other: _____                                    |

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 11-16 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boehringer Ingelheim (DE 9212939 U1) in view of Chung (U.S. Patent Number 5,738,246).

3. Referring to claim 11. Boehringer discloses a tablet dispenser (Figure 1) disposed at the open end of a container tube (1), said tablet dispenser comprising:  
an rectangular lower part capable of being assembled onto an open end of a container tube (1);

a dispenser tab (4a; Figure 2) in said annular lower part (see circular cavity created by the shaded portion of lower member; Figure 3 and 4), said dispenser tab (4a) extending diametrically into a clear opening (see Figure 3, wherein the tab 4a extends into opening) of said lower annular part with said dispenser tab (4a) being integrally formed on an inner edge of said lower annular part (see Figure 2); and,  
a lid (2) for closing said annular lower part (see Figure 1 and 2).

Boehringer does not specifically disclose the dispenser tab (4a) disposed in a hinged manner for being pivotable outwardly in an axial direction relative to said lower annular part.

Chung discloses a lid dispenser (Figure 1,3 and 4) wherein the dispenser tab (18) is integrally formed on an inner edge of said lower annular part (12; Figure 1) and the dispenser tab (18) is disposed in a hinged manner (183) for being pivotable outwardly in an axial direction relative to said lower annular part (Figure 3 and 4).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Boehringer and include a integrally formed pivotable tab (18) which can pivot outwardly in an axial direction as taught by Chung because it would prevent the tablets from exiting the dispenser in a uncontrollable fashion when the dispenser is tilted thus providing a means to individually remove each tablet.

4. Referring to claim 12. Boehringer does not specifically disclose the lower annular part of the container tube (1) and the lid (2) as being formed of two different materials with a different hardness number.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Boehringer in view of Chung and have included the lower annular part of the container tube as being made of a harder material

than a material of which the lid is made because the lid would be a little more flexible than the base annular part thus allowing the lid to deform slightly as the lid engages in a friction fit over the annular lower part.

5. Referring to claim 13. See claim 12, the opposite would be true.
6. Referring to claims 14,15 and 22. See claim 1. Chung discloses a lid dispenser (Figure 1,3 and 4) wherein the dispenser tab (18) in said lower annular part (12) diametrically extends in a tongue-like manner in the clear opening (see Figure 1 and 3) of said lower annular part (12), said dispenser tab (18) being integrally formed on said inner edge of said lower annular part (18) as a hinge, so that relative to said annular lower part (12), said dispenser tab (18) is pivotable outwardly in the axial direction by a least 10 degrees (see Figure 3-5).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Boehringer in view of Chung and include a film hinge to attach the tab to the tube container in a similar means as Boehringer discloses for the attachment means for the lid (see Figure 7; Boehringer) because a film hinge would reduce movable part and thus reduce manufacturing cost for the dispenser.

7. Referring to claim 16. Regarding claim 16, it would have been further obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Boehringer in view of Chung and include a tab as disclosed by Chung to be a width of

1/3 the inner diameter of the lower annular part of the opening thus reducing the size of the film hinge required to pivot the tab and in addition reducing material cost for the tab.

8. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boehringer in view of Chung as applied to claim 11 above, and further in view of Thanisch (U.S Patent Number 5,368,176).

9. Referring to claims 17. Thanisch discloses an apparatus (Figure 1) wherein the dispenser tab (4) has an end that is integrally formed on the inner edge of part container (1) via two film-hinge material bridges (8) distanced from one another, so that said dispenser tab is integrally formed in a twist-stable manner.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Boehringer in view of Chung and include a connecting means wherein two film-hinge material bridges are used to attach the tab (as disclosed by Boehringer) to the dispensing container as taught by Thanisch because the two film hinges would provide more support than a single central hinge and further resist torsion forces.

10. Referring to claims 18. Boehringer discloses guide members (6; Figure 4) to center the exiting tablet from the dispenser. Thanisch discloses an apparatus (Figure 1)

wherein the dispenser tab (4) includes a rib member (5) standing vertically on the tab (4) for reinforcing the rigidity of the dispenser tab.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Boehringer in view of Chung and include a rib member disposed on the center of the tab (Chang) to provide support for the tab member as taught by Thanisch because the tab would be able to support a greater load without deforming.

11. Claims 20,21 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boehringer in view of Chung as applied to claim 11 above, and further in view of Vreede (U.S Patent Number 4,171,753).

12. Referring to claims 20,21 and 23. Vreede discloses a dispenser (Figure 8) wherein said lower annular part (31) includes an inner thread (32) for permitting said lower annular part (31) to be screwed onto the open end of a container tube (3).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the teaching of Boehringer in view of Chung and include a thread mate interface for connecting the lower annular part to the container tube as taught by Vreede because assembly of the dispenser would be easier.

***Allowable Subject Matter***

13. Claim 19 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rakesh Kumar whose telephone number is (517) 272-8314. The examiner can normally be reached on 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RK  
March 30, 2006



**KATHY MATECKI**  
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